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 PACIFIC GAS & ELECTRIC COMPANY

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION**

In Re  
 PG&E CORPORATION  
 v.  
 AECOM TECHNICAL SERVICES, INC.

Case No. 4:20-cv-05381-HSG (Lead Case)

(Reference withdrawn from Bankruptcy Case No. 19-30088, Adv. Proc. No. 20-03019 and Adv. Proc. No. 19-03008)

(Consolidated with Case No. 3:20-cv-08463-EMC)

**REQUEST FOR JUDICIAL NOTICE IN  
 SUPPORT OF COUNTER-DEFENDANT  
 PG&E'S MOTION TO DISMISS/STRIKE  
 RE: AECOM'S SECOND AMENDED  
 COUNTERCLAIM**

[Fed. R. Civ. P. 12(b)(6), 15(a)]

Date: November 18, 2021  
 Time: 2:00 p.m.  
 Courtroom: 2, 4th Floor  
 Judge: Hon. Gilliam S. Haywood, Jr.

Complaint Filed: January 25, 2019  
 Trial Date: February 14, 2021

Pursuant to Rule 201 of the Federal Rules of Civil Procedure, Counter-Defendant Pacific Gas and Electric Company (PG&E) asks that the Court take judicial notice of the following documents in support of its Rule 15(a) Motion to Strike and Rule 12(b)(6) motion to dismiss as to Counterclaimant AECOM Technical Services, Inc.'s (AECOM) Second Amended Counterclaim:

1. Relevant excerpts of EPC Agreement, Attachment 1 – Project Specific Information, a true copy of which is attached as **Exhibit A** to the Khairi Declaration. This document is subject to judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *In re Northpoint Communs. Group, Inc., Sec. Litig.*, 221 F.Supp.2d 1090, 1095 (N.D. Cal. 2002) (“In ruling on a motion to dismiss, a court may take judicial notice of a document if it is relied on in the complaint (regardless of whether it is expressly incorporated therein) and its authenticity is not disputed”); *Salinas Valley Mem’l Healthcare Sys. v. Monterey Peninsula Horticulture, Inc.*, No. 17-cv-7076-LHK, 2019 U.S. Dist. LEXIS 104483, 2019 WL 2569545, at \*4 (N.D. Cal. Jun. 21, 2019) (judicial notice of contract referenced in complaint); *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005, 1017 (9th Cir. 2012) (same).

2. Relevant excerpts of EPC Agreement, Attachment 2 – General Conditions, a true copy of which is attached as **Exhibit B** to the Khairi Declaration. This document is subject to judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *In re Northpoint Communs. Group*, 221 F.Supp.2d at 1095; *Salinas Valley Mem’l Healthcare Sys.*, 2019 U.S. Dist. LEXIS 104483, at \*4; *Skilstaf, Inc.*, 669 F.3d at 1017.

3. Relevant excerpts of EPC Agreement, Attachment 3 – Specific Conditions, a true copy of which is attached as **Exhibit C** to the Khairi Declaration. This document is subject to judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *In re Northpoint Communs. Group*, 221 F.Supp.2d at 1095; *Salinas Valley Mem’l Healthcare Sys.*, 2019 U.S. Dist. LEXIS 104483, at \*4; *Skilstaf, Inc.*, 669 F.3d at 1017.

4. Contract Change Order No. 1 executed September 16, 2016, a true copy of which is attached as **Exhibit D** to the Khairi Declaration. This document is subject to judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp v. Sierra*

1 *Kings Health Care Dist.*, No. CVF 07-1199 AWI GSA, 2008 U.S. Dist. LEXIS 11328, at \*17 (E.D.  
 2 Cal. Jan. 31, 2008); *Towantic Energy, L.L.C. v. GE*, No. C 04-00446 JF, 2004 U.S. Dist. LEXIS  
 3 15385, at \*2, fn. 1 (N.D. Cal. Aug. 2, 2004).

4 5. Contract Change Order No. 2 executed January 9, 2017, a true copy of which is  
 5 attached as **Exhibit E** to the Khairi Declaration. This document is subject to judicial notice  
 6 pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S.  
 7 Dist. LEXIS 11328, at \*17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at \*2, fn. 1.

8 6. Contract Change Order No. 3 executed February 20, 2017, a true copy of which is  
 9 attached as **Exhibit F** to the Gruber Declaration. This document is subject to judicial notice  
 10 pursuant to Rule 201 of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S.  
 11 Dist. LEXIS 11328, at \*17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at \*2, fn. 1

12 7. Contract Change Order No. 4. executed March 29, 2017, a true copy of which is  
 13 attached as **Exhibit G** to the Khairi Declaration. This document is subject to judicial notice  
 14 pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S.  
 15 Dist. LEXIS 11328, at \*17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at \*2, fn. 1

16 8. Contract Change Order No.5. executed June 6, 2017, a true copy of which is attached  
 17 as **Exhibit H** to the Khairi Declaration. This document is subject to judicial notice pursuant to  
 18 Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S. Dist. LEXIS  
 19 11328, at \*17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at \*2, fn. 1

20 9. Contract Change Order No. 6. Executed December 7, 2017, a true copy of which is  
 21 attached as **Exhibit I** to the Khairi Declaration. This document is subject to judicial notice pursuant  
 22 to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S. Dist.  
 23 LEXIS 11328, at \*17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at \*2, fn. 1.

24 10. Relevant excerpts of Article 4 – Project Specific Information – to the Request for  
 25 Proposal for the Project, a true copy of which is attached as **Exhibit J** to the Khairi Declaration.  
 26 This document is subject to judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil  
 27 Procedure. *In re Northpoint Communs. Group*, 221 F.Supp.2d at 1095; *Salinas Valley Mem'l*  
 28 *Healthcare Sys.*, 2019 U.S. Dist. LEXIS 104483, at \*4; *Skilstaf, Inc.*, 669 F.3d at 1017.

1 Respectfully submitted,

2 Dated: August 9, 2021

RALLS GRUBER & NIECE LLP

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5 By: \_\_\_\_\_

6 AARON R. GRUBER

7 Attorneys for Counter-Defendant  
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